



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Wordpro, Inc.
File: B-242100.2
Date: April 24, 1991

John L. Howard for the protester.
James F. Trickett, Department of Health and Human Services,
for the agency.
Scott H. Riback, Esq., and James A. Spangenberg, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Exclusion of a proposal from the competitive range was reasonable where the record shows that the agency evaluators acted properly in downgrading protester's proposal on the basis of properly identified weaknesses and deficiencies and the protester's relatively low rating.

DECISION

Wordpro, Inc. protests the exclusion of its proposal from the competitive range after the evaluation of initial offers under request for proposals (RFP) No. 282-90-0005 issued by the Department of Health and Human Services, Public Health Service (PHS), for the acquisition of on-site microcomputer training services.

We deny the protest.

The RFP was issued as a 100-percent small business set-aside and requested the submission of firm, fixed-price offers to develop and conduct, on an as-needed basis, microcomputer training courses for a base year and four 1-year options.^{1/}

^{1/} Offerors were advised that the agency required microcomputer training in approximately 205 standard and/or newly marketed off-the-shelf software programs and 15 "highly technical and/or tailored, data specific" software programs designed to meet the special training needs of PHS employees.

The statement of work (SOW) called for firms to engage in on-site classroom training for the various specified software programs. There was a requirement to provide 90 percent "hands-on" training for the students involved as well as lectures and class assignments. The SOW also provided that offerors were responsible for supplying the necessary training materials, including course manuals, data diskettes, published textbooks, and visual aids.

In addition, the SOW provided that the successful offeror would be responsible for overall management of the training program. In this respect, offerors were required to manage both the scheduling and conduct of the various courses at the agency's training facility, and to develop, on an as-needed basis, new courses for the agency. Regarding the development of new courses, the SOW provided that offerors were required to respond to requests for the development of new and/or upgraded programs for existing software packages within 4 weeks and for the specific tailoring of a software package for PHS use within 2 weeks.

As to the evaluation of proposals, the RFP listed four technical criteria along with a narrative describing each criterion. The evaluation criteria were: (1) technical approach, 30 points; (2) personnel qualifications, 30 points; (3) management capabilities, 30 points; and (4) corporate facility, 10 points.

In response to the RFP, the agency received 16 proposals. After an initial technical evaluation, the agency included three proposals in the competitive range. The three competitive range offerors received point scores of 96.3, 88.3, and 85.1, respectively, with the awardee, Officepro, Inc., receiving the highest score. Wordpro was the fifth rated technical proposal with a score of 70.6. After evaluating the technical proposals, the agency eliminated from the competitive range the offeror who received the 85.1 score because that offeror's price was uncompetitively high. Thereafter, the agency apparently engaged in discussions with the remaining two firms, solicited best and final offers, and made award to Officepro.

After award, the agency debriefed the protester. The protester then filed an agency-level protest, which was denied, followed by a timely protest to our Office. Wordpro protests that the agency either improperly downgraded its proposal for minor informational deficiencies or erroneously identified deficiencies that in fact were nonexistent.

In making a competitive range determination, agencies are required to include within the competitive range all proposals which have a reasonable chance of being selected for award. Federal Acquisition Regulation § 15.609(a). Whether or not a proposal is technically acceptable or capable of being made so, it need not be included in the competitive range if it has no reasonable chance of selection. Even where proposal deficiencies cited by the agency are minor and readily correctable through the submission of information sought during clarifications or discussions, the agency may properly eliminate the proposal from the competitive range where the record shows that the rejected proposal, when viewed in relation to the other proposals that have been received, has no reasonable chance of receiving award. See Hummer Assocs., B-236702, Jan. 4, 1990, 90-1 CPD ¶ 12.

Here, although the record shows that the evaluators considered Wordpro's proposal acceptable with a number of strengths, they also found it contained significant weaknesses and deficiencies. On balance, the evaluators and the contracting officer found Wordpro's significantly lower rated proposal should be eliminated from the competitive range when viewed in relation to the other more highly rated proposals received. For example, the agency evaluators found that Wordpro failed to adequately address the RFP's requirements for textbooks; that it failed to explicitly promise that its courses were comprised of at least 90 percent "hands-on" classroom time; and that it failed to demonstrate that all of its proposed instructors met the experience requirements of the RFP. In addition, the evaluators criticized Wordpro for failing to discuss its responsibility for student adherence to classroom procedures as well as the firm's responsibility for the distribution and collection of agency-owned training material. The evaluators also found unacceptable the protester's proposal to store training manuals and course agendas at the government's facility. Finally, while the evaluators apparently liked Wordpro's proposed new course development approach, they were concerned that it was too in-depth and that the firm's approach would not fit within the agency's prescribed time frames.

While Wordpro alleges that its proposal in fact substantially addressed the alleged weaknesses and deficiencies and its elimination from the competitive range was improper, our review of the agency's evaluation materials and Wordpro's proposal leads us to conclude that the evaluators' concerns were legitimate and formed a reasonable basis for the rejection of the proposal.

Regarding Wordpro's textbook deficiency, the firm's proposal contains only the statement that "[w]here necessary, the appropriate textbooks will be supplied." The evaluators were

concerned about this statement since the SOW called for offerors to provide textbooks "necessary for or incidental to the performance of the work." We think that a fair reading of the SOW requirements demands that offerors make informed judgments as to when textbooks would be supplied and to demonstrate an ability to make those judgments within their proposals. In other words, a mere blanket offer of compliance was insufficient to meet this requirement. See Management Training Sys., B-238555.2, July 17, 1990, 90-2 CPD ¶ 43. In contrast to the protester's proposal, the awardee's proposal contains a detailed matrix showing which courses would use the various textbooks as well as to which software packages the textbooks were applicable. Under these circumstances, we think that the evaluators properly downgraded Wordpro in this area.

As to Wordpro's commitment to the SOW's new course development time frames, while the record confirms that the firm explicitly committed to meeting the required time frames, it also shows that the evaluators were concerned that Wordpro's proposed course development methodology was too in-depth and time consuming, given the agency's rapid response requirements. The evaluators were particularly concerned with Wordpro's "piloting" approach to new course development, which required the "pilot" teaching of the new course at least three times, during which time the firm could collect data from the students and revise the course. While the firm states in its protest that it specifically committed to the course development time frames and alleges that it would simply assign the necessary level of staffing in order to meet those time frames, Wordpro's proposal does not describe in detail how its new course development strategy would be adapted to and implemented within the specific requirements of the RFP. Instead, the firm's proposal discussed an example of a previous course development effort on its part, which took 6 weeks to accomplish (exclusive of its piloting effort), and followed this description with a blanket statement promising to meet the RFP time frames for the developing of new courses. Under the circumstances, the evaluators properly downgraded Wordpro for failing to adequately explain how it would meet the agency's stringent requirements for new course development.

As to the 90 percent "hands-on" requirement, the record shows that the protester only proposed to conduct its courses with a "major emphasis" on the hands-on participation of the attendees. The evaluators were concerned about this since it represented a vague commitment on the part of Wordpro to meet the RFP's very specific requirement. Wordpro's proposal, in the course development section, casts further doubt upon the firm's commitment to provide 90 percent "hands-on" instruction, since it states that "[t]he use of lectures,

demonstrations, hands-on practice, discussions, group activities, and visual aids must all be incorporated in the appropriate mix . . ." when the course developer is planning the delivery of a course. Based on the foregoing, we conclude that the evaluators were legitimately concerned about Wordpro's proposed approach and properly downgraded the firm for this deficiency.

With regard to proposed personnel, the protester argues that, despite the agency's determination to the contrary, the firm in fact proposed individuals who all met the RFP's experience requirement of at least 3 years of continuous microcomputer training experience with at least 1 year of experience training government personnel. The protester supports its assertion by directing our attention to a matrix contained in its proposal, which it claims shows that all of its personnel met the requirements. The agency, on the other hand, states that it did not base its conclusion upon the matrix but rather upon a careful examination of the resumes that the protester furnished. We have examined the resumes submitted by Wordpro with its proposal and conclude that there was a reasonable basis for the agency evaluators to question the qualifications of some of the firm's proposed instructors,^{2/} and the record contains enough evidence to bring into question the veracity of Wordpro's experience matrix.

Finally, we are unable to locate in Wordpro's proposal a discussion of how the firm proposed to meet the SOW requirements as they relate to student adherence to classroom procedures and the distribution and collection of government-owned property; Wordpro also did not address the matter in its submissions to our Office. In light of the explicit RFP requirements relating to these matters, the agency acted reasonably in downgrading Wordpro for failing to address the requirements.

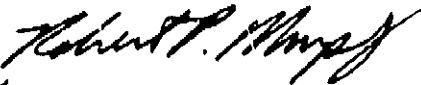
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Based on the foregoing, we are satisfied that the agency evaluators acted reasonably in eliminating Wordpro from the competitive range, especially given the receipt of three significantly higher rated proposals. Moreover, Wordpro's evaluated price, which approximates Officepro's price, offered

^{2/} From our review, at least two of the proposed instructors seemingly lacked the requisite experience.

the government no significant price advantage. Cf. Bay Tankers, Inc., 69 Comp. Gen. 403 (1990), 90-1 CPD ¶ 389.3/

The protest is denied.


for James F. Hinchman
General Counsel

3/ Wordpro also presents information in its comments, which it alleges demonstrates that the agency engaged in various improper actions from 1984 to 1990, in an effort to satisfy this requirement. We do not view these allegations as relevant to Wordpro's proper elimination from the competitive range.